grounds some courts exclude equity jurisdiction entirely. *People ex rel. O'Reilly* v. *Mills*, 30 Colo. 262, 70 Pac. 322; *Scott* v. *James*, 7 Va. App. 158. See *State ex rel. Cranmer* v. *Thorson*, 9 S. D. 149, 68 N. W. 202. But when, as in the principal case, the official act is purely ministerial, these considerations of public policy should more properly affect not the jurisdiction of equity, but its exercise. *Mott* v. *Pennsylvania R. Co.*, 30 Pa. St. 9. If the threatened injury to the taxpayer is indisputable, it may more than balance the public policy. But if in the principal case the bulk of the expenses had already been incurred, the prospective injury to the individual taxpayer might seem too slight to warrant the injunction.

INTERSTATE COMMERCE — CONTROL BY CONGRESS — EFFECT OF CARMACK AMENDMENT ON CONTRACTS LIMITING LIABILITY OF CARRIERS. — A contract for an interstate shipment limited the carrier's liability for loss of the goods from any cause to the value declared. By the state law such a contract was void, but it was valid by the law of the federal courts. The Carmack Amendment to the Interstate Commerce Act imposed liability upon the initial carrier for any loss caused by it or other carriers, and forbade contracting out of this liability, with the proviso that the shipper should not be deprived of any remedy he had under existing law. *Held*, that the contract is valid. *Adams Express Co.* v. *Croninger*, 226 U. S. 491, 33 Sup. Ct. 148.

The amendment does not forbid limitation of liability from negligence to a fair valuation. *Greenwald* v. *Barrett*, 199 N. Y. 170, 92 N. E. 218; *Carpenter* v. *United States Express Co.*, 139 N. W. 154 (Minn., 1912). *Contra, Kansas City Southern Ry. Co.* v. *Carl*, 91 Ark. 97, 121 S. W. 932. The proviso is interpreted as superfluous, or as referring only to federal law, since otherwise the uniformity of regulation desired would be defeated and variation in state rules would amount to discrimination among shippers in the different states. *Cf. Texas & Pacific Ry. Co.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426, 27 Sup. Ct. 350. The question then is whether the amendment supersedes state laws as to limitation of liability and leaves the federal law. Before this amendment, the Interstate Commerce Act did not affect the states' jurisdiction on this subject. *Chicago, M. & St. P. Ry. Co.* v. *Solan*, 169 U. S. 133, 18 Sup. Ct. 289; *Pennsylvania R. Co.* v. *Hughes*, 191 U. S. 477, 24 Sup. Ct. 132. The authorization of the Interstate Commerce Commission to control a particular subject in absence of its action does not prevent state regulation. *Missouri Pacific Ry. Co.* v. *Larrabee Flour Mills Co.*, 211 U. S. 612, 24 Sup. Ct. 214; *St. Louis, I. M. & S. Ry.* v. *Edwards*, 94 Ark. 394, 127 S. W. 713. Where the Commission has defined certain acts as discriminatory, the state may define others as discriminatory. *Puritan Coal Mining Co.* v. *Pennsylvania R. Co.*, 237 Pa. St. 420, 85 Atl. 426. Federal interstate regulation has not deprived states of power to regulate size of train crews, payment of wages, or to penalize delay. *Pittsburg, C., C. & St. L. Ry.* v. *State*, 172 Ind. 147, 87 N. E. 1034; *State* v. *Missouri Pacific R. Co.*, 147 S. W. 118 (Mo., 1912); *Traynham* v. *Charleston & West Carolina Ry.*, 71 S. E. 813 (S. C., 1911). A clear intention to suspend state power must be manifest. See *Reid* v. *Colorado*, 187 U. S. 137, 148, 23 Sup. Ct. 92, 96. But it is not necessary that the state statute be inconsistent with the federal statute to be invalid. *Southern Ry.* v. *Reid*, 222 U. S. 424, 32 Sup. Ct. 140. But *cf. Martin* v. *Oregon R. & Navigation Co.*, 58 Or. 198, 113 Pac. 16. And in the principal case the federal statute would seem to show an intent to occupy the entire field so as to exclude the state. *Contra, Elliott* v. *Atlantic Coast Line R. Co.*, 75 S. E. 886 (S. C., 1912); *J. M. Pace Mule Co.* v. *Seaboard Air Line R. Co.*, 76 S. E. 513 (N. C., 1912).

INTERSTATE COMMERCE — CONTROL BY STATES — CONSTITUTIONALITY OF STATE STATUTE COMPELLING RACE SEGREGATION ON ALL TRAINS. — A state

statute required all railroads carrying passengers in the state to provide equal but separate accommodation for the white and colored races. *Held*, that the statute is constitutional. *Alabama & Vicksburg Ry. Co.* v. *Morris*, 60 So. 11 (Miss.).

In absence of federal legislation, the state's power to regulate matters not requiring national uniformity, though affecting interstate commerce, is well settled. *Cooley* v. *Board of Wardens of Port of Philadelphia*, 12 How. (U. S.) 299; *Plumley's Case*, 156 Mass. 236. Thus states may forbid the operation of all freight trains on Sunday. *Hennington* v. *Georgia*, 163 U. S. 299, 16 Sup. Ct. 1086. Or regulate the speed of trains passing through cities. *Erb* v. *Morasch*, 177 U. S. 584, 20 Sup. Ct. 819. Or prescribe licenses for all engineers operating trains in the state. *Smith* v. *Alabama*, 124 U. S. 465, 8 Sup. Ct. 564. As in these cases, the principal case involved regulation of interstate commerce only as incidental to a general regulation. Local regulation seems peculiarly necessary here because of the divergent racial conditions in different sections of the country. *Smith* v. *State*, 100 Tenn. 494, 46 S. W. 566. But the argument that state regulation is invalid since uniformity is necessary to protect interstate passengers from frequent changing of coaches in case of variation in state legislation has often prevailed. *State ex rel. Abbot* v. *Hicks*, 44 La. Ann. 770, 11 So. 74; *Hart* v. *State*, 100 Md. 595, 60 Atl. 457; *Carrey* v. *Spencer*, 72 N. Y. St. 108, 36 N. Y. Supp. 886. But this was not thought sufficient to invalidate a state's regulation as to heating apparatus on all coaches, although inconsistent regulation might compel the use of different cars in different states. *New York, N. H. & H. R.* v. *New York*, 165 U. S. 628, 17 Sup. Ct. 418. Moreover, legislation incompatible with that in the principal case is impossible, since statutes forbidding racial separation in all coaches are unconstitutional. *Hall* v. *De Cuir*, 95 U. S. 485. The principal case seems clearly within the police power, since separation of races in common carriers is recognized as its proper exercise. *Plessy* v. *Ferguson*, 163 U. S. 537, 16 Sup. Ct. 1138; *Chesapeake & Ohio Ry. Co.* v. *Kentucky*, 179 U. S. 388, 21 Sup. Ct. 101. This is consistent with the unconstitutionality of statutes forbidding racial separation, since enforced racial intermingling cannot be a valid exercise of the police power. *Smith* v. *State*, *supra*.

INTERSTATE COMMERCE — WHAT CONSTITUTES INTERSTATE COMMERCE — TERMINI WITHIN ONE STATE OF ROUTE PARTLY WITHIN ANOTHER STATE. — The defendant, agent of an express company, was convicted for failure to pay a tax imposed by the plaintiff on the business of express companies in receiving and transmitting packages from and to places within the state "excepting such packages which are interstate commerce." The route used by the defendant for carrying express packages to or from this city, though the other terminus was within the state, ran for a considerable distance through another state. *Held*, that the conviction is not error. *Ewing* v. *City of Leavenworth*, 226 U. S. 464, 33 Sup. Ct.

Under the wording of the statute the court necessarily holds that this was not interstate commerce. The opposite result was reached when the question was whether the state could regulate the rates for such transportation. *Hanley* v. *Kansas City Southern Ry. Co.*, 187 U. S. 617, 23 Sup. Ct. 214. Under a similar set of facts a tax on the receipts proportionate to the mileage was upheld, and the court rests its decision on this case. *Lehigh Valley R. Co.* v. *Pennsylvania*, 145 U. S. 192, 12 Sup. Ct. 806. See 16 HARV. L. REV. 597. The result is desirable since the tax is clearly not contrary to the purpose of the Commerce Clause. But it is submitted that there can be no ground for holding that the transportation is interstate commerce for one purpose and not for another.